

General Information Letter: In the special rule for compensation of professional athletes, the term “team” refers to the employer.

August 8, 2007

Dear:

This is in response to your letter dated May 29, 2007, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

This email is to request clarification regarding 35 ILCS 5/304(a)(2)(B)(iv), definition of a “Team” and the application of the apportioned duty days as it applies to a member of an organization (i.e. the same employer) that moves to/from various levels with the same organization/employer, for example from one minor league team to another minor league team or to the major league team within the same organization/employer.

35 ILCS 5/304

Pursuant to subsection (iv) Illinois source income of a nonresident individual who is a member of a professional athletic team includes the portion of the individual's total compensation for services performed as a member of a professional athletic team during the taxable year which the number of duty days spend within this State performing services for the team in any manner during the taxable year bears to the total number of duty days spend both within and without this state during the taxable year.

35 ILCS 5/304(a)(2)(B)(iv)(c)(1) defines professional athletic team to include but not limited to, any professional baseball, basketball, football soccer or hockey team.

35 ILCS 5/304(a)(2)(B)(iv)(c)(3)(C) states duty days for any person who joins a team during the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes, or is scheduled to compete, shall begin on the day the person joins the team. Conversely, duty days for any person who leaves a team during this period shall end on the day that person leaves the team. Where a person switches teams during a taxable year, a separate duty-day calculation shall be made for the period the person was with each team.

QUESTION #1:

#1) Does the definition of a “professional athletic team” mean each organization/employer or does it mean each club within the same organization/employer?

Example:

The Blues Baseball team has one major league club in Illinois and several minor league clubs, located both inside and outside of Illinois, in which they move players and coaches from club to club. The players and coaches of all the above clubs are all employed by Blues Baseball.

#1a) Is each club with the Blues Baseball team considered a separate "team"?

#1b) Since the minor league clubs and the major league club are part of the same organization/employer, is the organization, Blues Baseball, considered a "team"?

QUESTION #2:

If the answer to question #1a is YES, a team is defined at each club within the same organization/employer, then the application of 35 ILCS 5/304(a)(2)(B)(iv)(c)(3)(C), would apply at the individual club level and not at the organization/employer level. In such a case each time the organization/employer relocated the player to a new club the duty days would begin when the member joined each club and end when he left each club.

#2) If the answer to question #1a is YES, a team is defined at the separate club level within the same organization/employer, how do you apply the apportionment of duty days pursuant to 35 ILCS 5/304(a)(2)(B)(iv)(c)(3)(C)?

Example:

A player is a resident of State Q, and is contracted with the Blues Baseball team from the beginning of the preseason to the end of the season. For purposes of this example the total number of days from the beginning of preseason to the end of the season is 200 days and the total compensation paid by Blues Baseball to the player is \$75,000 for the entire season.

The player is assigned to the Rookie club, located in State X, at the beginning of the season. He spends 175 days with the Rookie club. He travels with the Rookie club to State Z for 10 of those 175 days and spends the other 165 days in State X.

During the season the player is assigned to the Single A club, located in Illinois, for 5 days, in which he spends the entire 5 days within Illinois.

The player is then assigned to the Double A club, located in State B, for 5 days, in which he spends the entire 5 days in State B.

Next he is assigned to the Triple A club, located in State C, for 7 days, in which he spends the entire 7 days in State C.

Finally he is assigned to the Major League club, located in Illinois, for 8 days, in which he spends the entire 8 days in Illinois.

QUESTION #3:

If the answer to question #1a is YES, using the example in Question #2, and assuming that all the states above apply the same rules as 35 ILCS 5/304(a)(2)(B)(iv)(c)(3)(C):

#3a) What is the total compensation allocated to State X?

#3b) What is the total compensation allocated to the player for his time with the Single A club in Illinois?

#3c) What is the total compensation allocated to State B?

#3d) What is the total compensation allocated to State C?

#3e) What is the total compensation allocated to the player for his time with the major league club in Illinois?

QUESTION #4:

If the answer to question #1a is YES, and the total compensation allocated to States B, C, and Illinois is \$75,000 in Question #3 please explain how this the application would not fail the "internal consistency test" of the Commerce Clause of the US Constitution?

Conversely, if the answer to question #1 is that the organization/employer is considered to be the "Team" then it appears that the apportionment total compensation based on total duty days for the season seems to reflect the income earned in each state.

Response

Section 304(a)(2) of the Illinois Income Tax Act (35 ILCS 5/304) provides the statutory principles for determining the payroll factor of a taxpayer. Under Section 304(a)(2)(A), the payroll is the total compensation "paid in this State" by an employer divided by the employer's payroll paid everywhere. Section 304(a)(2)(B) provides the principles for determining when employee compensation is paid in this State. Accordingly, in the provisions in Section 304(a)(2)(B)(iv) for determining when compensation "for services performed as a member of a professional athletic team" is paid in this State, the term "team" means the employer.

Pursuant to Section 302(a) of the Illinois Income Tax Act (35 ILCS 5/302), the provisions in Section 304(a)(2)(B) are also used by nonresident employees to determine what portion of the compensation they receive from an employer is allocable to Illinois. In making this determination for a professional athlete, the term "team" must also refer to the employer.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

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Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax